

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:06-CR-192-F

UNITED STATES OF AMERICA,	)	
	)	
v.	)	<u>O R D E R</u>
	)	
ORVILLE RICHARDS,	)	
Defendant.	)	

In an order filed on December 8, 2010 [DE-83], the court observed that the defendant, Orville Richards, had filed a "Motion to Reopen Based on the Claim of Ineffective Assistance of Trial Counsel" [DE-82]. In the order, the court warned Mr. Richards that the court perceives that he is seeking relief which may be had, if at all, pursuant to a motion filed under 28 U.S.C. § 2255, and that the court intends to re-characterize his motion accordingly. The court directed Mr. Richards to file, on or before January 7, 2011, a written notice of his decision whether or not to withdraw or amend his November 15, 2010, motion. The court also directed Mr. Richards that if decides to amend his motion, he must submit a completed a § 2255 form, which was to be enclosed with the order.

Mr. Richards timely responded in writing [DE-84], informing the Clerk of Court that he intends to amend his motion. Mr. Richards asserts in the writing, however, that he did not receive a § 2255 form with the order.

Accordingly, the Clerk of Court is DIRECTED to mail a blank § 2255 form to Mr. Richards. It hereby is ORDERED that Mr. Richards has until **February 7, 2011**, to file the completed § 2255 form, stating all the § 2255 claims for relief he wishes to raise. Mr. Richards is directed to note that the form requires that he explain why he contends that this motion is timely under the one-year statute of limitations applicable to § 2255 motions or why the one-

year statute of limitations should be equitably tolled to permit him to prosecute his claim for federal habeas relief under § 2255. If, however, Mr. Richards decides to *withdraw* his motion [DE-82], he shall simply file a Notice of Withdrawal of Claim for Collateral Relief.

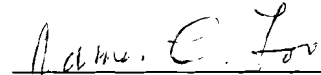
Mr. Richards, you are DIRECTED to mail your response to this order to:

Clerk of Court, EDNC  
Prisoner Division  
Sanford Federal Building  
310 New Bern Avenue, Room 574  
Raleigh, NC 27601

**YOU FURTHER ARE ADVISED THAT YOUR FAILURE TO RESPOND TO THIS ORDER IN A TIMELY MANNER AS DIRECTED HEREIN WILL RESULT IN THE COURT'S RE-CHARACTERIZATION OF YOUR NOVEMBER 15, 2010, MOTION AS HAVING BEEN FILED PURSUANT TO 28 U.S.C. § 2255, AND DISMISSAL OF IT AS BEING TIME-BARRED.**

SO ORDERED.

This, the 6th day of January, 2011.

  
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JAMES C. FOX  
Senior United States District Judge